

Special Called Meeting of the City of Sandy Springs Board of Ethics Meeting held on April 24, 2008 at 9:00 AM

Call to Order

Chairman Maddrey called the meeting to order at 9:00 a.m.

Board Members Present: Charles Maddrey, Jim Langlais, Glenn Moffett, Andrew Heyward, Nancy McCord, Susan Dew and Dick Isenberg.

Staff Present: City Clerk Christina Rowland and City Attorney Wendell Willard

Also present was Councilmember Dianne Fries and Mr. Dillon Fries.

Approval of Agenda

Ms. McCord moved to approve the meeting agenda. Mr. Moffett seconded the motion. The motion carried unanimously.

Approval of Minutes of April 9 Board Meeting

Mr. Heyward moved to approve the April 9 Board meeting minutes. Mr. Langlais seconded the motion. The motion carried unanimously.

Old Business

Review and discussion of the scope of the Fries Complaint hearing on May 15 – Glenn Moffett

Mr. Moffett stated that on April 11, 2008, the city attorney sent out letters to each one of the potential violators. He stated that he sent out a memorandum on April 18, 2008 to bring to the Board a suggested change in how to proceed with this matter. The letter that was sent to the potential violators stated that the Board would be looking at a potential violation of Section 2-112(c). The problem that was pointed out is that the complaint of a violation would have to be made within six (6) months of the knowledge of the offense. Therefore these individuals would have until the latter part of July to file the complaint. This information is currently before the board at this point. He stated that these individuals should not be forced to file an official complaint.

Mr. Moffet moved to instruct the City Attorney to send another letter to those other than Ms. Fries and Officer Johnson informing them that the Board is not going consider any violation of that section. Mr. Langlais seconded the motion.

City Attorney Willard clarified that these letters would be sent to Chief Wilson, Major Moore, Lt. Vaughn, and Sgt. Levy. He further clarified that the letters would indicate that the issue of a potential violation is being withdrawn. Mr. Moffett explained that this related to failing to notify anyone of the violation. He stated that the letter should state that the Board would be examining the areas contained in the letter under paragraphs (a) and (c). That way the others are not required to file a complaint.

The motion carried unanimously.

Recommendation of a hearing officer for the May 15 hearing - Wendell Willard

Chairman Maddrey stated that the appointment of a hearing officer is not very clean in the bylaws. Mr. Willard questioned the role of the hearing officer. Mr. Moffett stated that the Board should retain the authority.

Mr. Langlais moved that the Board conducts the hearing and there be no hearing officer appointed. Mr. Moffett seconded the motion. The motion carried unanimously.

Chairman Maddrey stated that he has the authority to either conduct the hearing or appoint someone to conduct the hearing. He stated that he will be asking someone else to conduct the hearing as he is not comfortable. The hearing is set for May 15, 2008 at 9:00 a.m.

Review and recommendation on the Statute of Limitations, Section 22 of the Ethics Ordinance – Jim Langlais

Mr. Langlais stated that with the exception of Councilmember MacGinnittie, everyone thought it should remain as it is. He suggested a caveat be included for instances where a crime has been committed. Mr. Willard stated that the Board should compare this to criminal law.

Mr. Langlais stated that the Mayor has requested that the Board review the entire ordinance.

City Clerk Rowland questioned the purpose of the hearing since the complainant filed herself. Mr. Langlais stated that she reported a potential violation.

New Business

Role of the Board Alternates – Wendell Willard

Mr. Maddrey stated that there is some confusion as to the roll of the alternates. Mr. Willard explained that the purpose of the alternates is to have someone to fill a vacant position if someone resigns or rotates off the board. He stated that the alternates should not make a motion or act on a motion. He stated that a proxy can not be used for a quorum, nor can an alternate. Mr. Willard suggested that the role of an alternate be changed to allow the alternate to step forward when someone is absent.

Mr. Willard stated that another role of an alternate is during a hearing when a board member is absent or recuses themselves.

Mr. Willard reviewed the following questions relating to the role of alternate board members:

1. What is the extent of the Alternate Board member's participation in meetings and in hearings (discussions, motions, questioning, voting)?

Mr. Willard stated that there is a different role in each process. Ms. McCord stated that the alternates should be able to participate in the discussions. Mr. Willard stated that only board members should actually participate.

2. When is the Alternate Board member designated to serve as Board member (absence, recusal, disqualification, resignation of Board member)?
3. How should Alternate Board member be designated (by whom and in what order)?

Mr. Moffett stated that the Chairman should designate an alternate to serve as a board member and they should be designated by seniority.

4. Once designated to serve in lieu of Board member, what happens to proxy (revisit the need and appropriateness of proxy)?

Mr. Willard stated that a proxy would not be needed if an alternate serves in the place of an absent board member. Chairman Maddrey stated that the proxy becomes a problem if an alternate replaces a Board member. You could end up with more than 5 votes on an issue. Mr. Willard stated that it is his understanding that an alternate's status should be changed so that in the event of an absence of a board member, an alternate would take their place.

Mr. Moffett stated that an alternate should be able to participate in discussions but not voting unless they are taking the place of a board member. Also, the quorum should be three (3) instead of four (4).

5. Can an Alternate Board member:

Serve as an officer of the Board (Section 2.1)?

There was a consensus that an alternate should not be able to serve as an officer.

Serve on an advisory committee (Section 4.1)?

There was a consensus that an alternate should be able to serve on an advisory committee.

6. How long does an Alternate Board member serve, and under Section 2.5, may an Alternate Board member be removed as Board members are?

Mr. Willard stated that the Ordinance does not provide terms for alternate board members. City Clerk Rowland stated that Mr. Isenberg is serving a two year term and Ms. Dew is serving a three year term. Chairman Maddrey stated that this could be included in a recommendation to Council.

7. Under Sections 3.2 and 3.3, clarify that an Alternate Board member should receive notice of meetings.

There was a consensus that alternate board members should receive notice of meetings.

8. Under Section 3.4, can an Alternate Board member place an item on the agenda of a regular meeting?

There was a consensus that alternate board members should not be able to place an item on the agenda of a regular meeting.

9. Under Section 3.7, reflect that an Alternate Board member is included in quorum if designated to replace Board member.

This was discussed previously.

Other relevant considerations:

10. In Section 3.7, consider changing the quorum required for a Board meeting from four to three members.

Chairman Maddrey suggested that Mr. Langlais' committee review this matter.

11. In Sec. 2-160 of the Ordinance, consider changing the time limitations for reporting a complaint.

12. Due to the sensitive nature of the Dianne Fries' complaint, consider having the Board conduct the hearing rather than using a hearing officer as allowed, but not required, by Sec. 2-155(g)(1) of the Ordinance.

Chairman Maddrey stated that the appointment of a hearing officer and the role of the hearing officer should be reviewed as well. Mr. Langlais stated that a hearing officer would serve in an administrative role only and would not vote. Mr. Willard stated that the hearing officer would ensure that the hearing was conducted properly. He stated that the board ultimately makes the decision regarding a violation.

Chairman Maddrey stated that Mr. Langlais' committee would review these items and prepare them for the July meeting.


Committee Report

Education Committee – Nancy McCord

Ms. McCord stated that she has not heard back from Mr. Haley. She stated that everyone needs to be made aware of the Ethics Ordinance and that they are responsible for knowing what is in it. She suggested that each employee should sign off during their review that they are aware of the Ethics Ordinance.

Adjournment

Mr. Heyward moved to adjourn the meeting. Mr. Langlais seconded the motion. The motion carried unanimously. The meeting adjourned at 9:56 a.m.


Charles Maddrey, Chairman


Christina Rowland, City Clerk